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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

EXAMINER	
KOENIG, ANDREW Y	
ART UNIT	**PAPER NUMBER**
2623	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/553,524	HUNTER ET AL.	
	Examiner	Art Unit	
	Andrew Y. Koenig	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *30-39,41-50,56,57,60-64,107,108 and 111-120* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *30-39, 41-50, 56, 57, 60-64, 107, 108, 111-120* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 27 March 2006 have been fully considered but they are not persuasive.

Arguments to the rejections under 35 USC § 112 – first paragraph (written description)

The applicant argues claims 111 and 112 which were in the header but no specific description was given. The examiner apologizes for the typographical error.

Regarding claims 113 and 120, the applicant provides support in the specification (pg. 37-38, ll. 25-1), specifically, that "The customer therefore, at all times has immediate on-demand access to the movies in his storage module for viewing or permanent recording." The applicant relies on this portion to support the narrower limitation that a movie is available for selection for permanent recording only once all of its content has been received and is in the storage module (emphasis added). The examiner disagrees that the cited portion provides support for the limitation of, "the mechanism ... enables said selection only after all the digital data content available for selection is received by the viewer." Specifically, there is no support that the specification at the time of filing contemplated that the "only after all the digital content... is received." In other words, it is reasonable to assume that the specification as originally filed would want to record programs even if they are not stored in their entirety, consequently, the cited portions do not inherently teach this limitation as there

are multiple solutions (e.g. storing before all the data is received and storing after all the data is received).

The applicant argues claims 116 and 117, which were in the header but no specific description was given. The examiner apologizes for the typographical error.

Regarding claim 118, the applicant has amended claim 118 to overcome the rejection under 35 USC § 112.

Arguments to the rejections under 35 USC § 102

Regarding claim 56, the applicant argues Russo describes automatic recording based upon a particular time a movie is to be transmitted according to future schedule information, rather than based upon digital content actually received (Russo: col. 9, ll. 38-51) (see applicant's remarks on pg. 12, para. 1). The examiner recognizes this distinction as the content cannot be stored until the content is transmitted and stored, which is agreed upon by the applicant. However, the applicant argues that the claims distinguish from this interpretation in that "the automatic selection takes place after the content is received" rather than "according to future schedule information." Whereas the examiner recognizes this distinction in that it appears that the content is received, then after being received, the content is automatically selected based. However, as discussed above, this is not the only interpretation for this claim. Even though the determination of the content that should be selected is performed before the content is received in Russo, the claim fails to recite any limitation directed to the determination of content. At best, the applicant broadly captures this idea with "automatically selecting

desired digital data content from the digital data content received..." However, this is merely a step of receiving and selecting the content as discussed with Russo. Upon reviewing the specification, it appears that to accomplish the automatic downloads the system operators communicates ID header information for the downloaded movie or movies (see specification: pg. 38-39, ll. 26-4), however as noted above this interpretation is not claimed nor required by the current language.

The applicant argues the system of Russo never received (i.e. records) the content that was not selected. This interpretation is not required. Apparently the applicant is arguing that Russo does not select content from the received content. The examiner disagrees; Russo stores at least all of the received content, which reads on selecting (all) desired digital data content from the digital data content received. The applicant's argument appears to be directed to the fact that the invention selects (some, but not all) desired digital data content from the digital data content received. However, the claims do not preclude the instant interpretation.

Regarding claims 56 and 107, the applicant argues that "a first-run movie is not randomly," as first-run movies have a definite, plan, purpose, or pattern. The examiner disagrees as the date for these movies are unknown to the user they fail to have definite, plan, purpose, or pattern. The examiner notes that the claim 56 recites "the predetermined criteria is determined randomly on a periodic basis" which in and of itself has a definite plan, purpose, or pattern. As best understood by the examiner, a first run movie reads on the claim as the movie selected is not controlled by the user and does

not have a definite plan, purpose, or pattern as this is controlled by someone other than a user.

Regarding claim 119, the applicant argues that storage does not equate to selection. The examiner disagrees; as it is inherent to the storage process that a step of selection occurs, wherein the content is a broadcast signal as in Russo. Further, the applicant argues that the digital data content is transmitted to the viewer before selection of the content and that the selection of the content is done beforehand in Russo. Whereas the selection of the content is performed beforehand in Russo, the actual content is "selected" after the transmission as the signal cannot be selected if the signal does not exist (e.g. not transmitted). For the above reasons, Russo teaches the claimed limitations.

Arguments to the rejections under 35 USC § 103

Applicant's arguments with respect to claims 30-39, 41-50, and 113-120 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 56, 107, 111, 113 and 120 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s)

contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims independent claims 56 and 107, claim 56 recites the limitation of "automatically selecting desired digital data content... according to a predetermined criteria, wherein the predetermined criteria is determined randomly on a periodic basis" and claim 107 recites "a mechanism that automatically selects from the digital data content ... randomly on a periodic basis." Both claims 56and 107 claim random selection, however there is no support in the application for this limitation.

Claim 113 recites, "the mechanism ... enables said selection only after all the digital data content available for selection is received by the viewer." The specification is silent as to enabling the selection only after all the digital data content available for selection is received by the viewer. Consequently, there is no support for enabling the selection only after all the digital data content available for selection is received by the viewer. Accordingly, "the mechanism ... enables said selection only after all the digital data content available for selection is received by the viewer" as claimed will be treated as "the mechanism ... enables said selection [only] after [all] the digital data content available for selection is received by the viewer."

Claim 120 recites, "said selection is made only after all of said digital data content is received at the location of the viewer." There is no support in the specification for this limitation. Accordingly, "said selection is made only after all of said digital data content is received at the location of the viewer" will be treated as, "said

selection is made only after [all of] said digital data content is received at the location of the viewer."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 56, 107, 111, and 119 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,619,247 to Russo.

Regarding claim 56, Russo teaches transmitting movies and music selections to customers via a cable television input or a satellite (col. 6, ll. 9-12, col. 7, ll. 29-34), and automatically recording a movie (Abstract, col. 9-10, ll. 38-10). Russo teaches playing back the selected movie, (figure 1; col. 3-4, ll. 65-2). Russo teaches communicating the movie selection to a program provider (col. 6, ll. 9-12), wherein the program provider of also bills the customers for the recorded selections and movies that actually played (col. 5, ll. 1-10), wherein the program provider is a location remote from the viewer. Russo teaches downloading programs upon initial availability of a first-run movie, which equates to a predetermined criteria is determined randomly on a periodic basis (col. 10, ll. 1-4).

Regarding claim 107, Russo teaches receiving movies and music selections to customers via a cable television input or a satellite (col. 6, ll. 9-12, col. 7, ll. 29-34), and permitting the user to pre-select and record a movie, along with automatically recording a movie into the high capacity storage (110) (which equates to the claimed memory) (Abstract, col. 9-10, ll. 38-10). Russo teaches a display generator (160) for informing the user of connected automatically connected and for display (col. 9-10, ll. 38-10). Russo teaches downloading programs upon initial availability of a first-run movie, which equates to a predetermined criteria is determined randomly on a periodic basis (col. 10, ll. 1-4).

Regarding claim 111, Russo teaches the making the automatic selection after the transmission of the digital content (col. 9-10, ll. 65-1).

Regarding claim 119, **Russo teaches providers (col. 6, ll. 9-12, col. 7, ll. 29-34) which are functionally capable of transmitting content to the viewer before selection of the movies of desired content for storage (col. 9-10, ll. 38-10), specifically, in that the claim does not positively recite the broadcasting of the content before selection. Consequently, any transmitter that transmits content and the user does not select the content reads on "capable of transmitting the digital data content to the viewer before selection of desired content for storage at a location of the viewer." Further, upon watching the movie, Russo teaches verifying that the content for storage has been displayed (col. 6, ll. 9-12), which equates to a verification mechanism.**

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 30, 31, 34-38, 43, 44, 50, 113-115, 118 and 120, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo in view of WO 92/22983 to Browne et al. (Browne) and U.S. Patent 5,654,747 to Ottesen et al. (Ottesen).

Regarding claim 30, Russo teaches transmitting movies and music selections to customers via a cable television input or a satellite (col. 6, ll. 9-12, col. 7, ll. 29-34), and automatically recording a movie (Abstract, col. 9-10, ll. 38-10). Russo teaches playing back the selected movie, (figure 1; col. 3-4, ll. 65-2). Russo teaches communicating the movie selection to a program provider (col. 6, ll. 9-12), wherein the program provider of also bills the customers for the recorded selections and movies that actually played (col. 5, ll. 1-10), wherein the program provider is a location remote from the viewer. However, Russo is silent on providing a mechanism for the viewer to select desired digital data content for separate storage from the digital data content received by the viewer (which is already stored in memory).

In analogous art, Browne teaches providing a mechanism for the viewer to select desired digital data content for separate storage from the digital data content received by the viewer in the Browne teaches permitting programs stored in storage device 104

to be stored on a separate device (such as a VCR) (pg. 15, ll. 91-27), wherein the VCRs are controlled by control signals (pg. 20, ll. 6-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by providing a mechanism for the viewer to select desired digital data content for separate storage from the digital data content received by the viewer as taught by Browne in order to prevent programs from being over-written or erased thereby enabling the user to save desirable programming.

Russo and Browne are silent on verifying that the selected content that has been displayed from a separate storage. In analogous art, Ottesen teaches a separate storage unit (fig. 2, label 44, col. 7, ll. 31-55), wherein verifying that the selected content has been displayed from the separate storage (col. 12, ll. 14-31, fig. 6, labels 138,140). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo and Browne by verifying that the selected content that has been displayed from a separate storage as taught by Ottesen in order to accommodate secure storage of information on a separate device and enable playback of the material, thereby enabling the user to record on-demand programming and playback the material without excessive communication between the headend and client.

Regarding claim 31, Russo teaches downloading supplemental data, such as future schedule information (col. 8, ll. 55-61), wherein the additional information is sent along with the digital data content (col. 8-9, ll. 64-5), which equates to digital data

content listing. Further, Russo teaches a display generator (fig. 2, label 160, col. 9, ll. 51-55, col. 10, ll. 49-60) for displaying stored content.

Regarding claim 34, Russo teaches using a key to decode a program to permit viewing (col. 6, ll. 12-24, 46-53), which reads on preventing the selected and stored content from being displayed on unauthorized devices.

Regarding claim 35, Russo teaches using a key to decode a program to permit viewing (col. 6, ll. 12-24, 46-53), wherein the content has some form of coding to prevent the display on unauthorized devices.

Regarding claim 36, Russo teaches using a key to decode a program to permit viewing (col. 6, ll. 12-24, 46-53), which reads enabling the display of the content.

Regarding claim 37, Russo teaches using a key to decode a program to permit viewing (col. 6, ll. 12-24, 46-53), wherein the key equates to an enabling signal wherein the key is sent from the program provider.

Regarding claim 38, Russo teaches sending a key to a specific user (col. 6, ll. 12-16), which reads on altering the selected and stored data to identify a particular customer.

Regarding claim 43, Russo teaches automatically selecting desired content from the plurality of digital data content for storage received by the viewer according to viewer preferences (col. 3, ll. 12-16, col. 10, ll. 4-10).

Regarding claim 44, Russo teaches automatically selecting desired content from the plurality of digital data content for storage received by the viewer according to viewer preferences (col. 3, ll. 12-16, col. 10, ll. 4-10).

Regarding claims 50, Russo teaches billing the customer based on their respective selections (col. 6, ll. 35-53), which equates to crediting a provider.

Regarding claim 113, Russo enables selection after the content is received (col. 5, ll. 48-65).

Regarding claim 114, Russo teaches downloading supplemental data, such as future schedule information (col. 8, ll. 55-61), which equates to digital data content transmission schedule.

Regarding claim 115, Russo is silent on providing pricing data for displaying the digital data content. Official Notice is taken that providing pricing information is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by providing pricing information in order to provide the viewer with additional information for purchasing a movie.

Regarding claim 118, Russo teaches providing a free preview period (col. 10-11, ll. 63-4), which reads on a link to a sample of the digital data content.

Regarding claim 120, Russo is silent on the permanent recording made after the content of a program is received.

In analogous art, Browne teaches permanent recording made after the content of a program is received on a VCR in that Browne teaches permitting programs stored in storage device 104 to be stored on a separate device (such as a VCR) (pg. 15, ll. 91-27), wherein the VCRs are controlled by control signals (pg. 20, ll. 6-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by permanent recording made after the content of a program is

received as taught by Browne in order to prevent programs from being over-written or erased thereby enabling the user to save desirable programming.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo, WO 92/22983 to Browne et al. (Browne), and U.S. Patent 5,654,747 to Ottesen et al. (Ottesen) in view of U.S. Patent 5,682,206 to Wehmeyer et al.

Regarding claim 32, Russo teaches downloading supplemental data, such as future schedule information (col. 8, ll. 55-61), but is silent on periodically updating the additional data. Wehmeyer teaches periodic updates of supplemental program guide data of future schedule information (col. 4, ll. 43-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russ by periodically updating information as taught by Wehmeyer in order to maintain current records.

9. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo, WO 92/22983 to Browne et al. (Browne), and U.S. Patent 5,654,747 to Ottesen et al. (Ottesen) in view of U.S. Patent 6,249,532 to Yoshikawa et al.

Regarding claim 46, Russo is silent on detecting data errors in the stored content. Yoshikawa teaches detecting errors (col. 9, ll. 34-43) in the received signal.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by detecting errors as taught by Yoshikawa in order to correct the errors in the signal thereby creating a higher quality signal.

10. Claims 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo, WO 92/22983 to Browne et al. (Browne), U.S. Patent 5,654,747 to Ottesen et al. (Ottesen), and U.S. Patent 6,249,532 to Yoshikawa et al. in view of U.S. Patent 5,905,713 to Anderson et al.

Regarding claim 47, Russo is silent on informing the customer of detected data errors. Anderson teaches displaying errors to a computer interface (col. 6, ll. 44-52). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by informing the user of detected errors as taught by Anderson in order permit the user to select the quality of the programming due to the error rates.

Regarding claim 48, Russo is silent on retransmissions of the content. Yoshikawa teaches retransmitting data in the event of errors (col. 9, ll. 34-43). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by retransmit data to replace errors as taught by Yoshikawa in order enhance the quality of the programming.

Regarding claim 49, Russo is silent on designating and informing the customer of the degree of errors. Anderson teaches selecting the types of errors (which equates to the claimed degree of errors) (col. 7, ll. 23-29). Therefore, it would have been obvious to

one of ordinary skill in the art at the time the invention was made to modify Russo by informing the user of the degree of detected errors as taught by Anderson in order permit the user to select the quality of the programming due to the error rates.

11. Claim 33, 41, 45, and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo, WO 92/22983 to Browne et al. (Browne), and U.S. Patent 5,654,747 to Ottesen et al. (Ottesen) in view of U.S. Patent 6,177,931 to Alexander et al. (Alexander).

Regarding claim 33, Russo teaches displaying information for selecting a program (col. 9-10, ll. 38-10). Russo is silent on displaying data content by category. Alexander teaches displaying content by category (fig. 7, 8). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by displaying content by category as taught by Alexander in order to efficiently browse through programming.

Regarding claim 41, Russo teaches additional information but is silent on promotional information. Alexander teaches promotional information about programming (fig. 10A, 10B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by displaying promotion information as taught by Alexander in order to encourage the user to select the program.

Regarding claims 45, Russo is silent on customer profile. Alexander teaches a profile and program suggestions (col. 30, ll. 54-58). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by implementing a profile and program suggestions as taught by Alexander in order to inform and aid the user in program selection.

Regarding claim 116, Russo is silent on a link providing digital data content summary. Alexander teaches providing a link to the viewer with a detailed description of the programming (col. 17, ll. 50-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by providing a link to detailed descriptions as taught by Alexander in order to enable the user to select desirable programming.

12. Claims 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo, WO 92/22983 to Browne et al. (Browne), and U.S. Patent 5,654,747 to Ottesen et al. (Ottesen) in view of U.S. Patent 6,522,769 to Rhoads et al. (Rhoads).

Regarding claim 39, Russo is silent on a digital watermark. Rhoads teaches a reconfigurable watermark detector, which can detect watermarks in video signals for security purposes (col. 1-2, ll. 49-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by using watermarks as taught by Rhoads in order to increase security and prevent unauthorized viewing.

Regarding claim 42, Russo is silent on the additional information is a soundtrack corresponding to the video image data. Rhoads teaches a watermark that permits the

user to purchase the soundtrack to a movie (col. 13, ll. 5-8). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by purchasing a soundtrack to a movie as taught by Rhoads in order to present extra opportunities to purchase the CD.

13. Claims 57, 60, 108, and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo in view of U.S. Patent 5,734,720 to Salganicoff.

Regarding claim 57, Russo teaches transmitting movies and music selections to customers via a cable television input or a satellite (col. 6, ll. 9-12, col. 7, ll. 29-34), and automatically recording a movie (Abstract, col. 9-10, ll. 38-10). Russo teaches playing back the selected movie, (figure 1; col. 3-4, ll. 65-2). Russo teaches communicating the movie selection to a program provider (col. 6, ll. 9-12), wherein the program provider of also bills the customers for the recorded selections and movies that actually played (col. 5, ll. 1-10), wherein the program provider is a location remote from the viewer. Russo is silent on a criteria based on popularity. Salganicoff teaches using national popularity as a criterion in suggesting programming to a user (col. 48, ll. 27-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by selecting based on popularity as taught by Salganicoff in order to expose the user to a variety of programming.

Regarding claim 60, Russo is teaches on transmitting classification information, comparing the classification information, and automatically selecting the programs to be

stored (col. 3, ll. 12-16). However, Russo is silent on the classification information being in the header. Official Notice is taken that indirect classification information being in the header is well known such as using classification identifying PIDs of an MPEG stream, wherein the PIDs by definition of MPEG is located in the header. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by identifying classification information being in the headers in order to efficiently determine whether the content would be desirable to the user.

Regarding claim 108, Russo teaches receiving movies and music selections to customers via a cable television input or a satellite (col. 6, ll. 9-12, col. 7, ll. 29-34), and permitting the user to pre-select and record a movie, along with automatically recording a movie into the high capacity storage (110) (which equates to the claimed receiver and mechanism), (Abstract, col. 9-10, ll. 38-10). Russo teaches a display generator (160) for informing the user of connected automatically connected and for display (col. 9-10, ll. 38-10). Russo is silent on a criteria based on popularity. Salganicoff teaches using national popularity as a criterion in suggesting programming to a user (col. 48, ll. 27-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by selecting based on popularity as taught by Salganicoff in order to expose the user to a variety of programming.

Regarding claim 112, Russo teaches the making the automatic selection after the transmission of the digital content (col. 9-10, ll. 65-1).

14. Claims 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo and U.S. Patent 5,734,720 to Salganicoff in view of WO 92/22983 to Browne et al. (Browne).

Regarding claims 61 and 62, Russo is silent on overwriting the oldest stored data. Browne teaches deleting the oldest stored data (pg. 7-8, ll. 20-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by deleting the oldest stored data as taught by White in order to remove content least desirable to the user.

Regarding claims 61 and 63, Russo is silent on overwriting the older released data. Browne teaches deleting the oldest stored data (pg. 7-8, ll. 20-5), which equates to "older released data" in that the data is the oldest data transmitted (e.g. released) from the transmitter. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by deleting the older released data as taught by White in order to remove content least desirable to the user.

15. Claims 61 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo and U.S. Patent 5,734,720 to Salganicoff in view of U.S. Patent Application Publication 2002/0056112 to Dureau et al.

Regarding claims 61 and 64, Russo is silent on overwriting the least fit preferences of the customer. Dureau teaches deleting the least fit preferences to make room for more programming (pg. 6, para. 0051). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by

deleting the least fit preferences as taught by Dureau in order to remove content least desirable to the user thereby creating space for new programming.

16. Claim 117 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,619,247 to Russo, WO 92/22983 to Browne et al. (Browne), and U.S. Patent 5,654,747 to Ottesen et al. (Ottesen) in view of U.S. Patent 5,483,278 to Strubbe et al. (Strubbe).

Regarding claim 117, Russo is silent on a link providing a critical review of the digital data content. Strubbe teaches a link providing a critic's review of the content (col. 4, ll. 34-39). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russo by a link providing a critic's review as taught by Strubbe in order to provide the user with additional information, thereby permitting the user to access more desirable content.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ayk

ANDREW Y KOENIG
AU 2623